

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Danville Division**

J. P., a Minor by her)
Mother and Next Friend, Debra Patrick,)
and)
DEBRA PATRICK)

Plaintiffs,)

v.)

Civil Action No: _____

DONNA MARTIN)
and)
UNITED STATES OF AMERICA)
and)
UNITED STATES POSTAL SERVICE)

Defendants.)

COMPLAINT

NOW COME the plaintiffs, J. P., a Minor, by her Mother and Next Friend, Debra Patrick and Debra Patrick and move for the judgment against the defendants, Donna Martin, United States of America, and the United States Postal Service, jointly and severally, on the grounds and in the amount set forth below:

Jurisdiction

This action arises under the Federal Tort Claims Act, 28 U.S.C. § 1346(b). An administrative claim was presented to, and received by, the United States Postal Service, an agency of the United States of America, 1000 Virginia Avenue, Huntington, West Virginia 25704-1726 on or about December 1, 2004. Pursuant to 28 U.S.C. § 2675, a final denial of the claim was issued on November 16, 2011 by the United States Postal Service.



Colonnade Corporate Center
2965 Colonnade Drive, SW
Suite 225
Roanoke, Virginia 24018
Phone 540-989-0500
Fax 540-989-1888

Facts

1. On or about the 17th day of June, 2004, the plaintiff, J. P., a minor, was standing at a mail box at 2246 Beales Lane in Nathalie in the Commonwealth of Virginia in order to collect the mail delivered by the mail carrier. The mail carrier, Donna Martin, drove her vehicle over J. P.'s foot.

2. At that time and place, defendant, Donna Martin was an employee of the United States Postal Service, an agency of the government of the United States of America, and was driving a vehicle owned by Donna Martin or the United States of America or the United States Postal Service and was engaged in her employment with the United States Postal Service delivering United States Mail.

3. At that time and place, it was the duty of the defendant, Donna Martin, to operate her vehicle with reasonable care and with due regard for others using the road.

4. At that time and place, at all pertinent times herein, defendant, Donna Martin, was employed by, and acting within the scope of her office or employment with defendants, the United States of America, and its agency the United States Postal Service.

5. Notwithstanding said duties, the defendant, Donna Martin, carelessly, recklessly, and negligently operated the vehicle owned by her, the United States of America or the United States Postal Service so that it drove over the foot of the plaintiff, J.P., with great force and violence.

6. The defendants, United State of America, The United States Postal Service, and Donna Martin, were negligent, including:



- (a) Donna Martin failed to keep a proper lookout;
- (b) Donna Martin failed to maintain proper control of the vehicle, owned by the United States of America, the United States Postal Service, or Donna Martin; and
- (c) Donna Martin operated the vehicle in a reckless and unsafe manner so that it drove over the foot of the plaintiff, J.P., with great force and violence.

7. Defendant United States of America and its agency the United States Postal Service are liable under the Federal Tort Claims Act and are vicariously liable for the negligence and resulting damages caused by their agent and employee, defendant Donna Martin.

8. As a direct and proximate result thereof, plaintiff, J. P., sustained damages, including but not limited to, serious and permanent injuries; has suffered and will continue to suffer great pain of body and mind; has sustained permanent disability; has incurred and will incur in the future, hospital, doctors' and related bills in an effort to be cured of said injuries.

9. Plaintiff, Debra Patrick, as parent of J.P., has a claim for past and future expenses, including \$34,385.20 for medical expenses, as a result of the injuries plaintiff, J.P., sustained in this collision, incidental losses and loss of services of plaintiff, J.P..

WHEREFORE, plaintiff, J.P., by her Mother and Next Friend, Debra Patrick, demands judgment against the defendants, jointly and severally, in the sum of **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)** plus interest and costs assessed as of the day of the accident referenced herein, and plaintiff, Debra Patrick, demands judgment against the defendants, jointly and severally, in the sum of **THIRTY-FOUR THOUSAND, THREE HUNDRED EIGHTY-FIVE DOLLARS AND TWENTY**



CENTS (\$34,385.20) plus interest and costs assessed as of the day of the accident referenced herein.

TRIAL BY JURY IS DEMANDED.

J. P., a Minor by her
Mother and Next Friend, Debra Patrick and
DEBRA PATRICK

s/ Benjamin J. Sykes, Esq.
Virginia State Bar Number: 79127
SKOLROOD LAW FIRM PC
2965 Colonnade Drive, S.W. Ste 225
Roanoke, VA 24018
Telephone (540) 989-0500
Fax (540) 989-1888
[Email: bsykes@skolrood.com]



*Colonnade Corporate Center
2965 Colonnade Drive, SW
Suite 225
Roanoke, Virginia 24018
Phone 540-989-0500
Fax 540-989-1888*